

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

FILED
5-22-15
11:13 AM

May 22, 2015

Agenda ID #13993
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 12-11-009:

This is the proposed decision of Administrative Law Judge Division. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's June 25, 2015 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties to the proceeding may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

Comments must be filed, pursuant to Rule 1.13, either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to the Intervenor Compensation Program at Icompcoordinator@cpuc.ca.gov. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ KAREN V. CLOPTON

Karen V. Clopton
Chief Administrative Law Judge

KVC: vm2
Attachment

Decision **PROPOSED DECISION OF ALJ DIVISION** (Mailed 5/22/2015)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2014 (U39M).	Application 12-11-009 (Filed on November 15, 2012)
And Related Matter.	Investigation 13-03-007

**DECISION DENYING AWARD OF INTERVENOR COMPENSATION TO
CENTER FOR ELECTROSMOG PREVENTION FOR LACK OF SUBSTANTIAL
CONTRIBUTION TO DECISION 14-08-32**

Intervenor: Center for Electromog Prevention (CEP)	For contribution: Decision (D.) 14-08-032
Claimed: \$50,574.00	Awarded: \$00.00 (reduced 100%)
Assigned Commissioner: Michael Peter Florio	Assigned Administrative Law Judge: ALJ Division¹

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	This decision approves test year revenue requirements increases of \$460 million, (for a 6.9% increase) for Pacific Gas and Electric Company (PG&E) pursuant to its 2014 General Rate Case (GRC) Application 12-11-009 and Investigation 13-03-007
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¹ This proceeding was originally assigned to Judge Pulsifer who has retired.

B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	January 11, 2013	Verified.
2. Other specified date for NOI:		
3. Date NOI filed:	January 29, 2013	Verified.
4. Was the NOI timely filed?		Yes, CEP timely filed the notice of intent.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	A.11-06-006	Verified.
6. Date of ALJ ruling:	December 27, 2011	Verified.
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer or customer-related status?		Yes, CEP demonstrated appropriate status.
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:		See Comments, below.
10. Date of ALJ ruling:		
11. Based on another CPUC determination (specify):		D.14-011-020 (in proceeding A.11-06-006)
12. Has the Intervenor demonstrated significant financial hardship?		Yes, CEP demonstrated significant financial hardship.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.14-08-032	Verified.
14. Date of issuance of Final Order or Decision:	August 20, 2014	Verified.
15. File date of compensation request:	October 3, 2014	Verified.
16. Was the request for compensation timely?		Yes, CEP timely filed the request for compensation.

C. Additional Comments on Part I:

#	Intervenor's Comment(s)	CPUC Discussion
	<p>CEP has never received a finding of “significant financial hardship” and has applied with the Notice of Intent (NOI) to claim compensation by checking the appropriate box in the title of the NOI document. CEP attached copies of its Articles of Incorporation, by-laws, and a current bank statement to the NOI. A current bank statement is being sent to the intervenor compensation coordinator with this amended compensation claim.</p> <p>CEP is a Category 3 customer representing people who fear the health impacts of emissions from the wireless facilities used in PG&E’s electric system and so have opted to have a traditional analog electric meter installed. These people hoped to have the minimal financial benefit of reducing the monthly fees charged for the opt-out. However, CEP needed \$50,574 for participating in the proceeding because participation requires travel and time commitments to attend evidentiary hearings and meetings as well as reading the application and the filings by the other parties. This participation cost far exceeds the benefits that the opt-out customers hope to gain. So, CEP is asking for compensation for having provided representation for them.</p>	<p>As noted above, CEP recently received a finding of significant financial hardship. <i>See</i> D.14-11-020, issued on November 10, 2014.</p>
	<p>CEP intervened in this proceeding because its members want to know that the electric system smart grid installations and operations have been evaluated for safety. CEP believes that the CPUC has not conducted an analysis of the safety of the PG&E</p>	

<p>electric distribution system as mandated by section 451 of the California Public Utilities Code. CEP reviewed the application and the CPUC executive director's letter of May 15, 2012, stated that risk assessments would be a part of the proceeding. This prompted the CEP contributions to this proceeding asking that the CPUC safety assessment include the electric facilities within the jurisdiction of the Federal Energy Regulatory Commission (FERC). D.14-08-032 states that the risk assessment portion wasn't included in the final decision and didn't describe CEP's testimony, cross-examination, or briefs, but CEP spent weeks of time reviewing the application, filings by other parties, and participated in the evidentiary hearings and therefore requests compensation for its time.</p> <p>In addition, Rulemaking (R.)13-11-006 was adopted to consider these issues. CEP's attorney, Martin Homec, is working for the Utility Consumers Action Network in the R.13-11-006 proceeding.</p>	
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PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (*see* § 1802(i), § 1803(a), and D.98-04-059).

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
1. CEP's PHC statement said that Ca P.U. Code 364 requires the Commission to adopt standards for electric distribution system. So, D. 14-08-032, section 4.4 should not approve funding	D. at 160: "The CEP opposes all of PG&E's forecast initiatives (a \$27.8 million reduction). CEP also recommends that the Commission open an investigation regarding PG&E's past recordkeeping practices for Electric Distribution and adopt certain	No contribution shown. See Part III.C, below.

until after these standards are adopted.	requirements regarding PG&E's wireless infrastructure."	
2. CEP's PHC statement item 6 said that PG&E's past records management methodology for the electric distribution system should be reviewed to determine whether it complies with existing standards and industry practices. If it does not, the ratepayers should not have to pay again for a records management system that was already paid for but not implemented properly.	D. at 162 "We decline to adopt CEP's proposal to open an investigation regarding PG&E's past recordkeeping practices for Electric Distribution."	No contribution shown. <i>See</i> Part III.C, below.
3. CEP's opening brief recommends including the requirements of Ca P.U. Code section 451 considerations for safety in the analyses. CEP's Prehearing Conference Statement (PHC) identified issues of concern by its members concerning the safety of PG&E's smart grid.	D. at 18 and at 19 agrees and explains that Rulemaking 13-11-006 has been adopted to consider these issues. Martin Homec is now working with the Utility Consumers Action Network (UCAN) in that proceeding to develop the issues. The CPUC adopted a safety policy on July 10, 2014, stating that of Ca P.U. Code section 451 considerations for safety would be included in every decision issued. CEP believes that D.14-08-032 is included in this policy and asks for compensation for its role in this effort.	No contribution shown. <i>See</i> Part III.C, below.
4. CEP opening brief recommends adopting standards described in section 364 because the former Commission division known as the Consumer Protection and Safety Division (CPSD) is engaged in an enforcement action (I.11-02-06 et al.) in the San Bruno gas pipeline explosion proceedings advocating enforcement of industry standards not yet adopted by the Commission.	D. p. 16 states that not all issues identified by the intervenors have been specifically addressed but those issues have been considered in crafting the final decision. R.13-11-006 was adopted to consider a framework for addressing those issues.	No contribution shown. <i>See</i> Part III.C, below.

5. CEP opening brief and recommends considering section 451 requirements for transmission facilities over-which the Commission has no rate making authority.	D. at 16: “We have reviewed the record, as well as the arguments made, and considered all issues raised in deciding revenue requirements and related policy directives adopted herein. In all other respects, this decision does not address revenue requirements for electric transmission, gas transmission and storage, Public Purpose Programs (PPPs) and conservation programs, except for allocating common costs.” CEP believes that the CPUC has Ca P.U. Code section 451 authority for safety over these facilities but D.14-08-032 did not address that issue.	No contribution shown. <i>See</i> Part III.C, below.
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B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor’s Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?²	Yes.	Yes.
b. Were there other parties to the proceeding with positions similar to yours?	No.	CEP’s general safety concerns were shared by many parties. However, CEP’s focus on “health impacts of emissions” from wireless meters (as compared to emissions form traditional meters) distinguished it from other parties.
c. If so, provide name of other parties:		
d. Intervenor’s claim of non-duplication: No other party asserted the same claims in this proceeding as did CEP.		

² The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

C. Additional Comments on Part II:

#	Intervenor's Comment	CPUC Discussion
	<p>CEP represents ratepayers who are concerned about the safety of the electric system. Other intervenors did not comment on CEP's concerns and the decision did not address the safety issues that CEP proposed in its brief, testimony, and participation in the evidentiary hearings. Instead, the decision stated that it did not address all the issues brought before the CPUC. The CPUC addressed these issues by issuing R.13-11-006 and the July 10, 2014, Safety Policy. CEP is asking for compensation for its efforts in this proceeding which led to the CPUC adopting R.13-11-006 and the Safety Policy.</p>	<p>Intervenor's assertion that its efforts in this proceeding led the Commission to issue R.13-11-006 is rejected. <i>See</i> Part III.D, below.</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§ 1801 and § 1806):**

<p>a. Intervenor's claim of cost reasonableness: CEP claims that the standards for the PG&E Electric Distribution System described in California Public Utilities code (PU) section 364 and for safety in PU section 451 are needed to determine the reasonableness of the utility's application for cost reimbursement led to Rulemaking 13-11-006. D.14-08-032 adopted operating revenue of \$3,862,187 for electric distribution without a discussion of risk assessment although risk assessment was evaluated during the proceeding. CEP is working with the Utility Consumers Action Network (UCAN) in R.13-11-006 to change the rate case plan for general rate case proceedings and to incorporate an assessment of risks in it.</p>	<p>CPUC Discussion</p> <p>Moot due to finding of no substantial contribution.</p>
<p>b. Reasonableness of hours claimed: CEP participated in all aspects of the general rate case proceeding including meetings, settlement conference and evidentiary hearings. These efforts led to D.14-08-032 which states that the evaluation of risk assessments is being considered in other proceedings because of the immediate need to issue a general rate case decision.</p>	<p>Moot due to finding of no substantial contribution.</p>

c. Allocation of hours by issue: CEP's Opening Brief addressed the following issues:		Moot due to finding of no substantial contribution.
Issue	Hours	
2. Legal and Ratemaking Principles and Other General Issues. . . .	100	
2.1. Legal and Jurisdictional Issues		
2.1.1. Commission Jurisdiction	2	
2.2. Safety and Risk in Ratemaking		
2.2.1. Legislative Developments	3	
2.2.4. SED Reports		
2.2.4.1. Liberty Report	101	
4.4. Electric Mapping and Records Management	22	
5.10. SmartMeter™ Program	22	

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Martin Homec	2012	24	\$193.80	D.13-07-045 plus increase of 2% Table 1 of Resolution ALJ-287 establishes an hourly rate of \$310-\$555	\$4,651.2	00.00	N/A	\$00.00
Martin Homec	2013	214.4	\$193.80	D.13-07-045 plus increase of 2% Table 1 of Resolution ALJ-287 establishes an hourly rate of \$310-\$555	\$41,550.72	00.00	N/A	\$00.00
Martin Homec	2014	11.4	\$193.80	D.13-07-045 plus increase of 2% Table 1 of Resolution ALJ-287 establishes an hourly rate of \$310-\$555	\$2,209.32	00.00	N/A	\$00.00
Subtotal: \$48,411.24						Subtotal: \$00.00		

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Martin Homec	2013	1.6	\$96.9	D.13-07-045 plus increase of 2% Table 1 of Resolution ALJ-287 establishes an hourly rate of \$310-\$555	\$155.04	00.00	N/A	\$00.00
Martin Homec	2014	20	\$96.9	D.13-07-045 plus increase of 2% Table 1 of Resolution ALJ-287 establishes an hourly rate of \$310-\$555	\$1,938.00	00.00	N/A	\$00.00
Subtotal: \$2,093.04						Subtotal: \$00.00		
COSTS								
#	Item	Detail			Amount	Amount		
	Copying and Mailing	Documents filed must be mailed in hard copy to assigned ALJ and Presiding Commissioner			\$70	\$00.00		
TOTAL REQUEST: \$50,574.28						TOTAL AWARD: \$ 00.00		
<p>**We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate</p>								
ATTORNEY INFORMATION								
Attorney		Date Admitted to CA BAR ³		Member Number		Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation		
Martin Homec		May 1979		085798		No		

³ This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

C. CPUC Disallowances and Adjustments:

Item	Reason
Part II.A.1-5	<p>The Center for Electromog Prevention (CEP) asserts five substantial contributions to D.14-08-032. Examination of D.14-08-032 does not show a substantial contribution in any of the asserted instances.</p> <p>Regarding the first two asserted instances, the lack of contribution appears on the face of the decision. The first instance is a summary of CEP’s position opposing certain PG&E forecasts and recommending the Commission open an investigation regarding PG&E’s past recordkeeping practices for its electric distribution. The mere summary of an intervenor’s position, without more, cannot be taken as evidence on that position. Here, the Commission resolved the forecasting issues without further reference to CEP. As to the recommended new investigation, CEP (in its second asserted instance) quotes the decision’s explicit <u>rejection</u> of the recommendation.</p> <p>Regarding the third instance, CEP claims that in D.14-08-032, at 18-19, the Commission agreed with CEP’s opening brief and Prehearing Conference Statement. However, the decision does not refer to either of those documents or to CEP’s arguments in general. CEP asserts that the Rulemaking (R.) 13-11-006 was initiated to consider CEP’s issues concerning the safety of PG&E’s smart grid. However, as explained in D.14-08-032, that rulemaking was framed generically to ensure “the effective use of a risk-based decision-making framework to evaluate safety and reliability improvements presented in GRC applications, develop necessary performance metrics and evaluation tools, and modify the Rate Case Plan documentations requirements for the investor owned energy utilities.” <i>Id.</i> at 19. Nothing in D.14-08-032 suggests that the Commission had a specific concern with electric metering when it initiated R.13-11-006; to the contrary, to the extent D.14-08-32 discusses specific concerns, they are with the <u>gas</u> utilities’ distribution facilities.</p> <p>Regarding the fourth and fifth instances, CEP relies on certain language in D.14-08-032, where the Commission explained that it will not explicitly discuss</p>

every argument or issue raised during the proceeding. We quote the relevant language, which states:

Since evidence and arguments in this proceeding are voluminous, we focus discussion on the major points of contention and do not summarize every nuance of each party's positions.

Similarly, due to the volume of the record and issues, we have not explicitly described every single issue raised during the proceeding. To do so would have increased the size of this decision even beyond its current length. That does not mean, however, that we have overlooked issues raised by parties. We have reviewed the record, as well as the arguments made, and considered all issues raised in deciding revenue requirements and related policy directives adopted herein. In all other respects, this decision does not address revenue requirements for electric transmission, gas transmission and storage, Public Purpose Programs (PPPs) and conservation programs, except for allocating common costs.

Id. at 16. There is nothing in the quoted language that would support an inference of substantial contribution by CEP.

The intervenor compensation statute defines "substantial contribution" as meaning that, "in the judgement of the commission, the customer's presentation has substantially assisted the commission in the making of its order or decision because the order or decisions has adopted in whole or in party one or more factual contentions, legal contentions, or specific policy on procedural recommendations presented by the customer." Cal. Pub. Util. Code § 1802(i). Examination of the opinion, findings, conclusions, and ordering paragraphs of D.14-08-032 fails to disclose any instance where CEP "assisted" the Commission, as defined in the statute. To the extent the Commission commented on CEP's input, that input was flatly rejected.

In the absence of a substantial contribution by CEP, its claim for intervenor compensation must be denied.

PART IV: OPPOSITIONS AND COMMENTS
Within 30 days after service of this Claim, Commission Staff
or any other party may file a response to the Claim (see § 1804(c))

A. Opposition: Did any party oppose the Claim?	No.
B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6))?	No.

If not:

Party	Comment	CPUC Discussion

FINDINGS OF FACT

1. Center for Electrosmog Prevention has not made a substantial contribution to D.14-08-032.
2. No hourly rates are set in today's decision.

CONCLUSION OF LAW

1. The Claim fails to satisfy all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Center for Electrosmog Prevention's claim for compensation for its participation in this proceeding is denied.
2. The comment period for today's decision is not waived.
3. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX
Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1408032		
Proceeding(s):	A1211009, I1303007		
Author:	ALJ Division		
Payer(s):	Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas and Electric		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Center for Electrosmog Prevention (CEP)	10/03/2014	\$50,574.00	\$00.00	No.	<i>Lack of substantial contribution</i>

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Martin	Homec	Attorney	CEP	\$193.80	2012	N/A
Martin	Homec	Attorney	CEP	\$193.80	2013	N/A
Martin	Homec	Attorney	CEP	\$193.80	2014	N/A

(END OF APPENDIX)